

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

RONNIE T. SHELTON,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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Civil Action No. 5:12-CV-00009

DEFENDANT'S MOTION TO DISMISS AND REMAND

Defendant Michael J. Astrue, Commissioner of Social Security ("Commissioner") hereby moves this Court to:

1. Remand this action, insofar as it seeks review under 42 U.S.C. § 405(g) of the Social Security Administration's denial of Plaintiff's application for disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 401-434, for further administrative proceedings, and dismiss this claim without prejudice against Defendant Michael J. Astrue, Commissioner of Social Security; and
2. Dismiss all other claims with prejudice against Defendant Astrue.

A Memorandum of Law in support of this Motion is being filed contemporaneously. A hearing is not requested.

Respectfully submitted,

TIMOTHY J. HEAPHY
United States Attorney

Date: June 11, 2012

/s/ Kartic Padmanabhan
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CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of June, 2012, electronically filed Defendant's Motion to Dismiss and Remand with the Clerk of the Court using the CM/ECF system, and mailed by United States Postal Service a copy of the document to the following non-CM/ECF participant: Ronnie T. Shelton, 41 Southview Drive, Waynesboro, VA 22980.

/s/ Kartic Padmanabhan
Kartic Padmanabhan
Assistant United States Attorney